

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:13CR3121
)	
v.)	
)	
JOSEPH J. BENZ,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

Joseph J. Benz (Benz) is charged with receipt and possession of child pornography. *See* 18 U.S.C. § 2252A(a)(2) and 18 U.S.C. §2252(a)(4)(B). These crimes are alleged to have occurred from about January 1, 2013, continuing to on or about May 20, 2013. Benz has given notice under Federal Rule of Criminal Procedure 12.2(a). Benz asserts that he was “insane” at the time of the offense.

He claims that he suffers from a medical condition known as Multiple Sclerosis. He also claims he suffers from a medical condition known as “restless leg syndrome.” He asserts that he was prescribed Pramipexole, sold under the name Mirapex. He asserts, and Kirk Newring, Ph.D., agrees, that the drug caused Benz to fixate on his past sexual abuse as a child and therefore caused him to search the internet for photos of his own abuse. Benz and Dr. Newring claim that this activity was repetitive, compulsive, involuntary and uncontrollable.

The government seeks an examination of the defendant under 18 U.S.C. § 4242 and the defendant agrees. The parties agree that the defendant should be allowed to self-surrender to the appropriate facility and to be released from that facility at the conclusion of the evaluation.

IT IS ORDERED that:

1. The government's motion (filing no. 54) is granted.
2. The Bureau of Prisons shall conduct an examination of Benz and submit a report to the Court pursuant to 18 U.S.C. §§ 4242, 4247(b), and 4247(c)(4)(B) addressing the question of whether Benz was insane at the time of the offense charged.
3. Benz is committed to the Bureau of Prisons in order that the foregoing examination may be conducted. He shall self-surrender, at his own costs, to the facility designated by the Bureau of Prisons at the date, time and place designated by the Bureau of Prisons, and shall be released to return to Nebraska, at his own costs, upon completion of the foregoing examination.
4. Mindy Bare, the Probation and Pretrial Services Officer assigned to this case, shall coordinate this case with the Bureau of Prisons, Benz and the lawyers. Her telephone number is (402) 437-1683.
5. Robert Creager, defense counsel, shall immediately gather up all medical records and pharmacy records associated with Benz's alleged medical conditions that form any basis for the claim of insanity. Mr. Creager shall also immediately gather up all materials used by Dr. Newring which support his opinion set forth in the Second Amended Rule 12.2 Notice. (Filing no. 52.) He shall then provide these documents to Ms. Bare.
6. Ms. Bare shall provide the Bureau of Prisons with the records described in the preceding paragraph together with a copy of the Second Amended Rule 12.2 Notice. (Filing no. 52.)

7. The Clerk shall provide Ms. Bare with a copy this Memorandum and Order.
8. The Clerk shall provide the United States Marshals Service with a copy of this Memorandum and Order, and the United States Marshals Service shall notify the Bureau of Prisons of this Memorandum and Order.
9. My chambers shall call this matter to my attention in 120 days.
10. The trial of this matter is continued until further order of the court. The time between today's date and the date of the Bureau of Prisons' submission of its report to the Court is excluded from computation under the Speedy Trial Act in the interests of justice. See 18 U.S.C. § 3161.

DATED this 21st day of April, 2015.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge